

Agenda

Item #3



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

July 6, 2007

Arthur Clement
931 Hinckley Rd
Clinton, ME 04927

Dear Mr. Clement:

This is to notify you that the Maine Commission on Governmental Ethics and Election Practices will hold its next meeting on Monday, July 16, 2007, at 9 a.m.

The staff requests that you be present to respond to the recommended penalties of \$2,000 for misuse of Maine Clean Election Act funds and other violations. Also, the Commission will consider a preliminary penalty of \$2,224 for late filing of your post election report. The staff recommends a reduction in amount of the penalty to \$400.

If you have any questions or cannot attend this meeting, please telephone me at 287-4179.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wayne", written over a horizontal line.

Jonathan Wayne
Executive Director

cp



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

April 13, 2007

By Regular and Certified Mail

Mr. Arthur H. Clement
931 Hinckley Road
Clinton, ME 04927

Re: Notice of Recommended Penalties and Opportunity to Respond

Dear Mr. Clement:

This letter and accompanying memo notify you of your opportunity to respond to the Ethics Commission staff's preliminary factual findings and penalty recommendations concerning your 2006 campaign. The recommendations will be considered by the Commission at its next meeting on Monday, May 14 at 9:00 a.m. We request that you be present at the Commission's meeting to respond to the findings and recommended penalties. Also, we highly recommend that if you disagree with the staff's preliminary recommendations or findings, you respond in writing to them no later than Thursday, May 3. Your response would be included in a packet of materials sent to the Commission members prior to the meeting.

Based on its preliminary factual findings, the staff recommends that the Commission assess the following penalties against you. The full violations are explained in the accompanying memo.

- The Commission should assess a civil penalty of \$1,250 against you for violating 21-A M.R.S.A. §1125(6) by spending Maine Clean Election Act (MCEA) funds for purposes that were not related to your campaign. Although you subsequently used personal funds to reimburse the Maine Clean Election Fund for these purchases, it was a violation of the MCEA for you to use public funds provided to your campaign for these personal expenses.
- The Commission should assess a civil penalty of \$500 against you for violating 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules by failing to return all unspent campaign funds by the December 19, 2006 deadline. You eventually returned these funds to the Commission, but it was only after repeated requests by the Commission staff and the Commission's referral of the matter to the State Attorney General for collection.
- The Commission should assess a civil penalty of \$250 against you for violating 21-A M.R.S.A. §1125(7-A) by commingling your MCEA funds with your personal funds. You deposited most of a June 2006 payment of \$4,362 into your

OFFICE LOCATED AT: 242 STATE STREET, AUGUSTA, MAINE
WEBSITE: WWW.MAINE.GOV/ETHICS

Arthur H. Clement

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April 13, 2007

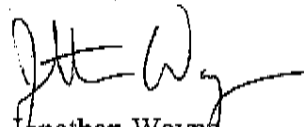
personal account and transferred all of an October payment of \$8,724 to your business account. You went on to spend large amounts of these payments for personal expenses.

The recommended penalties against you total \$2,000. The staff may adjust its recommendations prior to the May 14 meeting depending on any written response you provide by May 3.

Please be aware that the Commission is authorized under 21-A M.R.S.A. §1127(1) to assess penalties of up to \$10,000 for each violation of the Maine Clean Election Act or the Commission's rules. It is possible that at the May 14th meeting the Commission could assess penalties that are significantly higher than those recommended by the staff. The staff urges you to take seriously responding to the preliminary findings and penalty recommendations.

Please telephone me at 287-4179 if you have any questions about the recommendations or the enforcement process. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan Wayne', with a stylized flourish at the end.

Jonathan Wayne
Executive Director



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Hon. Arthur H. Clement
From: Jonathan Wayne, Executive Director
Date: April 13, 2007
Re: Preliminary Staff Findings

This memo describes the preliminary factual findings by the Ethics Commission staff which are the basis for civil penalties the staff intends at this time to recommend to the Commission at its May 14th meeting. As stated in the accompanying letter, the staff urges you to attend the May 14th meeting and to respond in writing no later than Thursday, May 3. Your response will be included in a packet of materials that we will send to the Commission. The staff is willing to reconsider our recommendations to the Commission if we conclude that our preliminary findings were in error or if there were mitigating circumstances of which we were not aware.

Financial Overview of Your Campaign

Cash Activity		Notes
Seed money contributions received	\$25.00	
Total MCEA funds received	\$13,573.00	includes \$6,929.33 which you were not authorized to spend
Total reported expenditures	\$660.98	
Return of unauthorized funds	\$6,949.33	due 11/21/06; returned 11/27/06
Return of unspent MCEA funds	\$5,988.29	due 12/19/06; returned 3/7/07 and 3/20/07

Legal Restrictions on Use of MCEA Funds

The Maine Clean Election Act (MCEA) requires candidates to use MCEA funds for "campaign-related purposes." (21-A M.R.S.A. §1125(6)) The statute does not define acceptable campaign related expenditures, but rather requires the Commission to issue guidelines on permissible uses of MCEA funds. The Commission's guidelines state:

Candidates must spend all Maine Clean Election Act funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit.

...

MCEA funds may not be spent on personal expenses. Those expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household food items and supplies;
- Vehicle and transportation expenses unrelated to the campaign;
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
- Clothing, including attire for political functions such as business suits or shoes.

Your 2006 Campaign Expenditures

Your campaign finance reports indicate that you made a small number of campaign expenditures in 2006:

Date	Payee	Expenditure Code/Remark	Amount
5/9/2006	Gardiner Savings	Service charge	\$3.00
5/9/2006	Gardiner Savings	Service charge	\$3.00
6/14/2006	Capitol Promotions	Signs	\$379.98
10/26/2006	Maine Street Solutions	Literature	\$275.00
Total			\$660.98

Expenditures of MCEA for Purposes that were not Campaign-Related

Initial Payment of \$4,362 for the General Election

On June 21, 2006 you deposited your initial general election payment of \$4,362 into your personal checking account, rather than your campaign account.¹ You were authorized to spend this entire amount for campaign-related purposes, but your only campaign expenditure of these June funds was the October 26 payment of \$275 to Maine Street Solutions. The remaining portion of the \$4,362 apparently was spent on personal expenses.

The Commission staff does not have bank records for this account, so it does not know the exact nature of your personal expenses. In a January 26, 2007 telephone conversation with Sandy Thompson, you stated that you used the \$4,362 check to pay your mortgage and other personal expenses. In your February 7, 2007 letter to the Commission you stated that you "made out checks for bills."

We acknowledge that in March 2007 you eventually reimbursed the Maine Clean Election Fund for these personal expenditures after the Commission referred this matter to the State Attorney General for collection. Nevertheless, it was a violation of 21-A M.R.S.A. §1125(6) for you to spend these funds for purposes that were not campaign-related.

Matching Funds Payment of \$8,724 for the General Election

On October 27, 2006, the State of Maine electronically transferred a matching funds payment of \$8,724.00 to your campaign account. The Commission authorized you

¹ The Commission staff's review of your campaign disclosed that you have three accounts at the Gardiner Savings Institution: a campaign account, a personal checking account, and a business account.

to spend a total of \$1,774.67 of these funds, but you did not spend any portion of these funds on campaign-related payments.

You transferred the \$8,724 from your campaign account to your business account in two parts on November 6 and 15, 2007. Prior to November 6, you had a limited amount of funds (\$536.45) in your business account from other sources. During the month of November, you were outside of Maine (mostly in Virginia). In considering your expenditures from your business account, the Commission staff presumes that you first used the \$536.45 in non-MCEA money and afterward used the MCEA funds transferred on November 6 and 15.

That presumption leads us to the finding that you used MCEA funds to make personal expenses which included:

Payee	Amount
US Airways	\$307.70
Econo Lodge in Newport News, VA	\$253.13
ATM withdrawals (3)	total of \$140
Direct TV	\$132.95
Retailers/gas stations/restaurants (Rite Aid, Sears, Walgreens, Pizza House, etc)	Various (\$5.00 - \$65.00)

On November 27, 2006, you returned \$6,949.33 to the Maine Clean Election Fund from your business account. It appears that you did not spend this amount while it was in your business account from November 6 and 15 to November 27.

The Commission staff finds that \$1,774.67 - the amount of matching funds that was not returned on November 27, 2006 – was used for purposes not related to your campaign. These expenditures violated 21-A M.R.S.A. §1125(6).

Failure to Return Unspent Campaign Funds

Under 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules, you were required to return any remaining unspent MCEA funds by December 19, 2006, the reporting deadline for your final campaign finance report. You returned this amount, \$5,988.29, about three months late in two payments on March 7 and March 20, 2007.

You returned the unspent MCEA funds only after repeated requests by the Commission staff and only after the Commission staff scheduled this matter for referral to the Attorney General at the Commission's February 27 meeting. I have attached a list of those requests. By returning these funds about three months after the deadline, you violated 21-A M.R.S.A. §1125(12) and Chapter 3, Section 7(2)(B) of the Commission's rules.

Commingling MCEA Funds with Personal Funds

Under 21-A M.R.S.A. §1125(7-A), candidates are required to deposit MCEA funds into a campaign account with a bank or other financial institution, and those "funds must be segregated from, and may not be commingled with, any other funds." It appears you violated this restriction by depositing most of the \$4,362 into your personal account and transferring the \$8,724 payment to your business account. Large portions of these MCEA funds were later used for personal expenses, which is what the prohibition on commingling was intended to prevent.

Questionable Explanation Previously Provided

The Commission staff is not recommending that the Commission take any action on the following issue, but we are concerned that you may have provided information to the Commission in writing that is inaccurate. In your January 26, 2007 telephone conversation with Sandy Thompson, you stated that:

- you were out of town when a check from the state was delivered to your home;
- your daughter told you that you had received a check from the state; and
- you directed her to deposit in your business account, believing it to be a tax credit check.

You re-stated that account in your February 7, 2007 letter to the Commission:

I [r]eceived a check from Maine Clean Election Fund to my home. I was out of town at the time and when I inquired with my daughter, she said it was a check from the state, in which I thought it was the homeward rebate check, I told her to put it into my business account, in which I made out checks for bills. When I returned home several weeks later, I realized the error of it being the clean elections funds check and not the rebate check.

That story appears to be inconsistent with the bank records we received from the Gardiner Savings Institution. You received two MCEA checks in 2006: a check dated April 24 in the amount of \$487.00 (your primary election payment) and a check dated June 15 in the amount of \$4,362.00. The signature on the checks seem to indicate that you (not your daughter) signed both checks at the time they were deposited on April 27 and June 21. The signatures seem to be consistent with each other, and with the registration documents you signed and submitted to the Commission in February 2006. The \$4,362 check was deposited on June 21, 2006 along with an unemployment check of \$151.00. Your bank has supplied us with the deposit ticket you signed and the cash slip providing you with \$100 in cash.

At the May 14 meeting, the Commission staff hopes you will explain why the bank records are not consistent with the explanation of your daughter depositing the check. The Commission staff have not reached any conclusion but we are troubled by the possibility that you may have provided a false explanation to the Commission in your February 7, 2007 letter.

Thank you for your consideration of these preliminary findings. The Commission staff urges you to be at the May 14th meeting to respond to the findings and proposed penalties. We also believe it would help the Commission reach a fair decision of this matter if you would submit no later than May 3 a written response to the proposed factual findings and recommendations.

Candidate: Arthur Clement**Date: 4/11/2007****Accounts Analysis – Deposits/Credits, Withdrawals/Debits**

Date	Campaign Account XXXXXX08	Personal Account XXXXXX90	Business Account XXXXXX57	Comments
4/10/2006	\$25 Check deposit			Seed money
4/27/2006	\$487 Check deposit			Primary payment
6-16 and 6/17	\$379.98 Debits			Campaign expenditure paid to Capital Promotions
6/21/2006	\$1,500 Cash deposit	\$4,362 Check deposit		General payment check signed by A. Clement and deposited in personal account.
6/23/2006	\$800 Counter check withdrawal	\$800 Cash deposit		MCE funds deposited into personal account
6/28/2006	\$100 ATM withdrawal			
7/14/2006	\$550 Counter check withdrawal	\$550 Cash deposit		MCE funds deposited into personal account
7/27/2006	\$250 Cash deposit			
8/16/2006	\$275 Payment by check			Campaign expenditure paid to Maine Street Solutions

Please note: Campaign account balance is now \$50.09

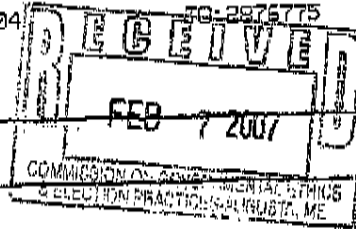
10/27/2006	\$8,724 EFT credit			Matching funds payment
11/6/2006	\$1,500 Telephone transfer (debit)		\$1,500 Telephone transfer (credit)	MCE funds transferred to business account.
11/15/2006	\$7,288.26 Withdrawal		\$7,288.26 Deposit	Campaign account closed. MCE funds deposited into business account.

FEB-7-2007 12:44P FROM:ERRQL W CLEMENT

2076343004

FG-2876775

P.1



A - CLEMENT CERTIFIED & STUD WELDING

931 HINCKLEY RD
CLINTON, ME 04927
Phone (207) 426-9085
Cell (207) 314-0525

To: Maine Ethics Commission,

Attn: Sandy Thompson
Fax (207-6775)

2/7/07

I Received a check from Maine Clean Election Fund to my home. I was out of town at the time and when I inquired with my daughter, she said it was a check from the state, in which I thought it was the homeowner rebate check, I told her to put it into my business account, in which I made out checks for bills. When I returned home several weeks later, I realized the error of it being the clean elections funds check and not the rebate check. My intention was to pay the money back before it was due in December. When I realized that I couldn't, I immediately called Sandy Thompson to explain the situation. In talking to Sandy Thompson there was a misunderstanding as she thought the check was the \$8700 that was electronically put into my campaign account in which it was, but not the check we were discussing. The first check to my home was the check we were talking about.

I would like to pay a schedule of 50.00 a month, to be paid in full in one year if not sooner. It was an unfortunate error on my part and I am truly sorry and embarrassed of the situation and am looking forward to any assistance from your department on this matter.

Authorized by;

Arthur Clement

STATE OF MAINE
Augusta, Maine 04333

CHECK DATE 4/24/06

1611100767

VOID 180 DAYS FROM CHECK DATE

SHOW YOUR ENDORSE
REQUIRE IDENTIFICATION

\$487.00

Banknorth
Maine 52-7445
2112

TO THE ORDER OF

ARTHUR H CLEMENT
933 HINCKLEY RD
CLINTON ME 04927

FOUR HUNDRED EIGHTY SEVEN AND 00/100 DOLLARS

1611100767 1211274450 7999060335

1611100767

ENDORSE
Edward A. Clement
TREASURER

CARDINAL SECURITY CHECK: THE FOLLOWING SECURITY FEATURES PLEASE
1. WATCH FOR THE MICR LINE WHICH APPEARS ON THE BACK WHEN PHOTOCOPIED.
2. THE PAPER HAS A CHAIN PATTERN WHEN VIEWED THRU THE LIGHT.
3. THE TOP LINE OF THE BORDER SAYS "STATE OF MAINE" OVER AND OVER IN VERY
SMALL TYPE. PLACE YOUR FINGER ON THE RED INK CIRCLE BELOW. IT WILL
FEEL LIKE IT IS ABOUT TO DISAPPEAR.

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

601007849 20060428 00
INCLEARINGS 01 058

1110680470 4/27/2006 211272465

1110680470 4/27/2006

211272465



Account Number: [REDACTED]

Date: March 23, 2007

Page: 1 of 2

The image shown below represents an official copy of the original document as processed by Gardiner Savings

DEPOSIT TICKET

Name ARTHUR CLEMENT CASH 1500.00

Date 06/21/2006

Gardiner Savings Institution, FSB
Gardiner, Maine 04345

NET DEPOSIT \$ 1500.00

1114250390 06/21/2006 211272465

06/21/2006

\$1500.00

CHECKS

1114250390 06/21/2006 211272465

009 011 6/21/06#0350 - \$1,500.00 0

06/21/2006

\$1500.00

DEPOSIT TICKET

ARTHUR H. CLEMENT
331 HINCKLEY ROAD
CLINTON, ME 04427
207-426-8085

CASH 1500.00
OTHER 4362.00

DATE 06/21/2006

Gardiner Savings Institution, FSB
Gardiner, Maine 04345

NET DEPOSIT \$ 2913.00

1114250390 06/21/2006 211272465

06/21/2006

\$2913.00

CHECKS

1114250390 06/21/2006 211272465

009 011 6/21/06#0340 - \$2,913.00 0

06/21/2006

\$2913.00

Veronica © 2004 GARDINER

CASH OUT CREDIT TELLER 9

WATERVILLE UPPER MAIN

AMOUNT 100.00

11009 06/21/2006 11009

11009

06/21/2006

\$100.00

1114250390 06/21/2006 211272465

009 011 6-21-06#036 \$100.0000

11009

06/21/2006

\$100.00

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24-HOUR AUTOMATED PHONE BANKING: 1-800-358-4300 LOCAL NUMBER: 558-2254



Account Number:

Date:

March 23, 2007

Page:

2 of 2

The image shown below represents an official copy of the original document as processed by Gardiner Savings

STATE OF MAINE
TREASURY DEPARTMENT - ALBANY, MAINE
0004907756
PAY TO THE ORDER OF
PAY EXACTLY
ONE HUNDRED FIFTY-ONE DOLLARS
151.00
ARTHUR H CLEMENT
301 HINCKLEY RD
CLINTON ME 04027

7999060369 06/21/2006 4907756 \$151.00

1114258408 6/21/2006 >211272405<

7999060369 06/21/2006 4907756 \$151.00

STATE OF MAINE
CHECK DATE 01/18/06
\$4,362.00
FOUR THOUSAND THREE HUNDRED SIXTY TWO AND 00/100 DOLLARS
ARTHUR H CLEMENT
301 HINCKLEY RD
CLINTON ME 04027

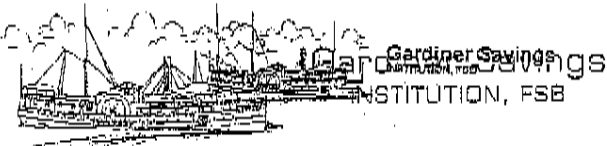
7999060335 06/21/2006 1616501386 \$4362.00

1114258410 6/21/2006 >211272405<

7999060335 06/21/2006 1616501386 \$4362.00

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24-HOUR AUTOMATED PHONE BANKING: 1-800-588-4300 LOCAL NUMBER: 555-5261



Account Number: [REDACTED]

Date:

March 23, 2007

Page:

1 of 1

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DEPOSIT TICKET

ARTHUR H. CLEMENT
801 HICKLEY ROAD
CLINTON, ME 04897
207-486-9395

DATE 06/23/2006

CASH 800.00

CHECKS OR TOTAL FROM OTHER SIDE

SUB TOTAL

LESS CASH

NET DEPOSIT \$ 800.00

1114398158 6/23/2006 211272465

06/23/2006 \$800.00

1114398158 6/23/2006 211272465

06/23/2006 \$800.00

COUNTER CHECKING WITHDRAWAL DEBIT

GARDINER SAVINGS INSTITUTION, FSB NOT NEGOTIABLE

NAME ARTHUR H. CLEMENT

DATE 6/23/06

ACCOUNT NUMBER - FILL IN LEFT TO RIGHT

AMOUNT OF WITHDRAWAL 800.00

1114398158 6/23/2006 211272465

06/23/2006 \$800.00

1114398158 6/23/2006 211272465

06/23/2006 \$800.00

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24-HOUR AUTOMATED PHONE BANKING: 1-800-596-4300 LOCAL NUMBER: 558-0684



Account Number: [REDACTED]

Date:

March 23, 2007

Page:

1 of 1

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CHECKING DEPOSIT - CREDIT		DESCRIPTION	DOLLARS	CENTS
GARDINER SAVINGS INSTITUTION, FSB		CASH	7288	26
NAME	A. Clement			
DATE	11 15 06			
ACCOUNT NUMBER: [REDACTED]				
TOTAL			7288	26

11/15/2006

\$7288.26

1114200170	11/15/2006	211272465
004 0111/15/060030 \$7288.26 D		

11/15/2006

\$7288.26

GENERAL LEDGER DEBIT		DDA & SAVINGS SETTLEMENT ACCT
DESCRIPTION	ACCOUNT TITLE	DATE
Arthur Clement closing acct #	7288.26	11 15 06
BR	ACCOUNT NUMBER	BRANCH NAME
001023010000000		11/15/2006
TOTAL		7288.26

00102301000000

11/15/2006

\$7288.26

1114200100	11/15/2006	211272465
7288.26		

00102301000000

11/15/2006

\$7288.26

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24-HOUR AUTOMATED PHONE BANKING: 1-800-596-4300 LOCAL NUMBER: 558-8884



Gardiner Savings
INSTITUTION, FSB

Date 11/07/06
Primary

Page 1

Arthur H Clement
Representative for House District 29
931 Hinckley Rd
Clinton ME 04927

Gardiner Savings and Calais Federal Savings & Loan are happy to announce the two banks have agreed to merge. The merger complements Gardiner Savings' recent acquisition of First Citizens Bank and helps us better serve our customers.

STATEMENT INFORMATION

Personal Checking		Number of Enclosures	0
Account Number	[REDACTED]	Statement Dates	10/11/06 thru 11/07/06
Previous Balance	47.25	Days in the Statement Period	28
1 Credited Items	8,724.00	Average Ledger	3,678.96
1 Debited Items	1,500.00	Average Collected	3,678.96
Service Charge	.00	Interest Earned	11.41
Interest Paid	11.41	Annual Percentage Yield Earned	4.12%
Ending Balance	7,282.66	2006 Interest Paid	16.64

CREDIT ITEMS POSTED

Date		Amount
10/27	[REDACTED] STATE OF MAINE	8,724.00
	CTX	
11/07	INTEREST PAID	11.41

DEBIT ITEMS POSTED

Date		Amount
11/06	TELEPHONE TRANSFER DEBIT	1,500.00-

DAILY BALANCE INFORMATION

Date	Balance	Date	Balance
10/11	47.25	11/06	7,271.25
10/27	8,771.25	11/07	7,282.66

* * * END OF STATEMENT * * *

Arthur Clement Communications Concerning Unspent Funds

Date: 4/3/2007

Date	Mode	Description
1/18/2007	Letter	Form letter sent to all candidates who have not returned unspent funds.
1/24/2007	Letter	Commission letter (from Jonathan Wayne) sent regular and certified mail to Clement requesting the payment of a late filing penalty and the return of unspent funds. If payments not received by 2/5/2007, his name would be on the 2/14 Commission meeting agenda.
1/26/2007	Phone	Sandy Thompson called Clement and left message and he returned her call at 9:45 a.m. He explained situation: he was in VA, thought check was tax credit payment, had daughter deposit it in his personal account, paid his mortgage, when he returned to ME he realized his mistake.
1/26/2007	Letter	Commission letter (from Jonathan Wayne) requesting written explanation from Clement as follow-up to telephone conversation.
2/5/2007	Phone	Clement called Sandy concerning Commission's 1/26 letter. He explained that: the check was the general payment check (6/14) not the matching funds payment (10/27). Since he closed his campaign account on 11/15/2007, he would have to pay with a personal check.
2/7/2007	Letter via fax	Letter from Clement explaining how general payment deposited into his account.
2/13/2007	Phone and Letter	Clement sent letter describing payment plan. Sandy called him back to clarify his plan and recommended that he pay (at least half) ASAP to show good faith effort.
3/5/2007	Phone	Clement called Sandy informing her that he would be sending bank check for full amount (if possible).
3/7/2007	Phone	Clement called Sandy and left message that he would be able to pay \$3000 and will send another check for remaining balance as soon as he had the funds.
3/20/2007	Letter	Commission received payment from Clement of his remaining balance (\$2,988.29) of unspent funds.

Title 21-A, §1125, Terms of participation

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PLEASE NOTE: The Revisor's Office CANNOT perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.

§1125. Terms of participation

1. Declaration of intent. A participating candidate must file a declaration of intent to seek certification as a Maine Clean Election Act candidate and to comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection 11, according to forms and procedures developed by the commission. A participating candidate must submit a declaration of intent within 5 business days of collecting qualifying contributions under this chapter, or the qualifying contributions collected before the declaration of intent has been filed will not be counted toward the eligibility requirement in subsection 3.

[2005, c. 301, §29 (amd).]

2. Restrictions on contributions for participating candidates. Subsequent to becoming a candidate as defined by section 1, subsection 5 and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's seed money contributions to the following amounts:

A. Fifty thousand dollars for a gubernatorial candidate; [IB 1995, c. 1, §17 (new).]

B. One thousand five hundred dollars for a candidate for the State Senate; or [IB 1995, c. 1, §17 (new).]

C. Five hundred dollars for a candidate for the State House of Representatives. [IB 1995, c. 1, §17 (new).]

The commission may, by rule, revise these amounts to ensure the effective implementation of this chapter.

[IB 1995, c. 1, §17 (new).]

3. Qualifying contributions. Participating candidates must obtain qualifying contributions during the qualifying period as follows:

A. For a gubernatorial candidate, at least 2,500 verified registered voters of this State must support the candidacy by providing a qualifying contribution to that candidate; [IB 1995, c. 1, §17 (new).]

B. For a candidate for the State Senate, at least 150 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate; or [IB 1995, c. 1, §17 (new).]

C. For a candidate for the State House of Representatives, at least 50 verified registered voters from the candidate's electoral division must support the candidacy by providing a qualifying contribution to that candidate. [IB 1995, c. 1, §17 (new).]

A payment, gift or anything of value may not be given in exchange for a qualifying contribution. A candidate may pay the fee for a money order in the amount of \$5, which is a qualifying contribution, as long as the donor making the qualifying contribution pays the \$5 amount reflected on the money order. Any money order fees paid by a participating candidate must be paid for with seed money and reported in accordance with commission rules.

[2001, c. 465, §4 (amd).]

4. Filing with commission. A participating candidate must submit qualifying contributions to the commission during the qualifying period according to procedures developed by the commission, except as provided under subsection 11.

[IB 1995, c. 1, §17 (new).]

Title 21-A, §1125, Terms of participation

5. Certification of Maine Clean Election Act candidates. Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- A. Signed and filed a declaration of intent to participate in this Act; [IB 1995, c. 1, §17 (new).]
- B. Submitted the appropriate number of valid qualifying contributions; [IB 1995, c. 1, §17 (new).]
- C. Qualified as a candidate by petition or other means; [IB 1995, c. 1, §17 (new).]
- D. Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; [2003, c. 270, §1 (amd).]
- D-1. Not run for the same office as a nonparticipating candidate in a primary election in the same election year; and [2003, c. 270, §2 (new).]
- E. Otherwise met the requirements for participation in this Act. [IB 1995, c. 1, §17 (new).]

The commission shall certify a candidate complying with the requirements of this section as a Maine Clean Election Act candidate as soon as possible and no later than 3 business days after final submittal of qualifying contributions.

Upon certification, a candidate must transfer to the fund any unspent seed money contributions. A certified candidate must comply with all requirements of this Act after certification and throughout the primary and general election periods. Failure to do so is a violation of this chapter.

[2005, c. 301, §30 (amd).]

6. Restrictions on contributions and expenditures for certified candidates. After certification, a candidate must limit the candidate's campaign expenditures and obligations, including outstanding obligations, to the revenues distributed to the candidate from the fund and may not accept any contributions unless specifically authorized by the commission. Candidates may also accept and spend interest earned on bank accounts. All revenues distributed to a certified candidate from the fund must be used for campaign-related purposes. The candidate, the treasurer, the candidate's committee authorized pursuant to section 1013-A, subsection 1 or any agent of the candidate and committee may not use these revenues for any but campaign-related purposes. The commission shall publish guidelines outlining permissible campaign-related expenditures. [2005, c. 542, §3 (amd).]

7. Timing of fund distribution. The commission shall distribute to certified candidates revenues from the fund in amounts determined under subsection 8 in the following manner.

A. Within 3 days after certification, for candidates certified prior to March 15th of the election year, revenues from the fund must be distributed as if the candidates are in an uncontested primary election. [2001, c. 465, §4 (amd).]

B. Within 3 days after certification, for all candidates certified between March 15th and April 15th of the election year, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested primary election. [2001, c. 465, §4 (amd).]

B-1. For candidates in contested primary elections receiving a distribution under paragraph A, additional revenues from the fund must be distributed within 3 days of March 15th of the election year. [2001, c. 465, §4 (new).]

C. Within 3 days after the primary election results are certified, for general election certified candidates, revenues from the fund must be distributed according to whether the candidate is in a contested or uncontested general election. [2001, c. 465, §4 (amd).]

Funds may be distributed to certified candidates under this section by any mechanism that is expeditious, ensures accountability and safeguards the integrity of the fund.

[2001, c. 465, §4 (amd).]

7-A. Deposit into account. The candidate or committee authorized pursuant to section 1013-A, subsection 1 shall deposit all revenues from the fund in a campaign account with a bank or other financial institution. The campaign funds must be segregated from, and may not be commingled with, any other funds. [2005, c. 542, §4 (new).]

Title 21-A, §1127, Violations

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§1127. Violations

1. Civil fine. In addition to any other penalties that may be applicable, a person who violates any provision of this chapter or rules of the commission adopted pursuant to section 1126 is subject to a fine not to exceed \$10,000 per violation payable to the fund. The commission may assess a fine of up to \$10,000 for a violation of the reporting requirements of sections 1017 and 1019-B if it determines that the failure to file a timely and accurate report resulted in the late payment of matching funds. This fine is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate, treasurer, consultant or other agent of the candidate or the committee authorized by the candidate pursuant to section 1013-A, subsection 1 found in violation of this chapter or rules of the commission may be required to return to the fund all amounts distributed to the candidate from the fund or any funds not used for campaign-related purposes. If the commission makes a determination that a violation of this chapter or rules of the commission has occurred, the commission shall assess a fine or transmit the finding to the Attorney General for prosecution. Fines paid under this section must be deposited in the fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

[2005, c. 542, §6 (amd).]

2. Class E crime. A person who willfully or knowingly violates this chapter or rules of the commission or who willfully or knowingly makes a false statement in any report required by this chapter commits a Class E crime and, if certified as a Maine Clean Election Act candidate, must return to the fund all amounts distributed to the candidate.

[IB 1995, c. 1, §17 (new).]

IB 1995, Ch. 1, §17 (NEW).

PL 2003, Ch. 81, §1 (AMD).

PL 2005, Ch. 301, §33 (AMD).

PL 2005, Ch. 542, §6 (AMD).

- (2) Actual Expenses. Actual expenses include the pro rata, campaign-related share of vehicle depreciation or lease payments, maintenance and repairs, gasoline (including gasoline taxes), oil, insurance, and vehicle registration fees, etc. For reimbursement using this method, the candidate must maintain detailed records reflecting use of the vehicle for campaign-related purposes. The records must include the dates the vehicle was used for campaign-related purposes, the total mileage the vehicle was used for campaign-related purposes, the total mileage the vehicle was used for all purposes during the period for which reimbursement is made, and the percentage of total vehicle usage that the vehicle was used for campaign-related purposes.

2. Reporting by Participating and Certified Candidates.

- A. General. Participating and certified candidates must comply with applicable reporting requirements set forth in Title 21-A, chapter 13, subchapter II [§ 1017].
- B. Return of Matching Fund Advances and Unspent Fund Revenues. Matching Fund advance revenues that have not been authorized for spending and unspent Fund revenues shall be returned to the Fund as follows:
 - (1) Unauthorized Matching Funds. Candidates must return all Matching Fund advance revenues for which no spending authorization was issued prior to an election to the Commission by check or money order payable to the Fund within 2 weeks following the date of the election.
 - (2) Unspent Fund Revenues for Unsuccessful Primary Election Candidates. Upon the filing of the 42-day post-primary election report for a primary election in which a certified candidate was defeated, that candidate must return all unspent Fund revenues to the Commission by check or money order payable to the Fund.
 - (3) Unspent Fund Revenues for All General and Special Election Candidates. Upon the filing of the 42-day post-election report for a general or special election, all candidates must return all unspent Fund revenues to the Commission by check or money order payable to the Fund.
- C. Liquidation of Property and Equipment. Property and equipment that is not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) that has been purchased with Maine Clean Election Act funds loses its campaign-related purpose following the election. Such property and equipment must be liquidated at its fair market value and the proceeds thereof reimbursed to the Maine Clean Election Fund as unspent fund revenues in accordance with the schedule in paragraph B above.
 - (1) The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.
 - (2) Liquidation must be at the fair market value of the property or equipment at the time of disposition. Fair market value is determined by what is fair,

**STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS AND ELECTION PRACTICES**

135 State House Station
Augusta, Maine 04333-0135
Tel: (207) 287-4179 Fax: (207) 287-6775
Website: www.maine.gov/ethics

**EXPENDITURE GUIDELINES FOR 2006
MAINE CLEAN ELECTION ACT CANDIDATES**

Candidates must spend all Maine Clean Election Act (MCEA) funds for campaign-related purposes and not for other purposes such as the candidate's personal benefit, party-building, or to promote another candidate's campaign.

■ Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using MCEA funds must also take into account the public nature of the funds, the underlying objectives of the MCEA, and the reasonableness of the expenditures under the circumstances. In Maine, traditional campaign expenses have included:

- Printing and mailing costs;
- Political advertising expenses;
- Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;
- Office supplies;
- Campaign events (e.g., food, rent of tent or hall, etc.);
- Campaign staff expenses; and
- Campaign travel expenses, such as fuel and tolls.

■ MCEA funds may not be spent on personal expenses. Those expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, such as:

- Day-to-day household food items and supplies;
- Vehicle and transportation expenses unrelated to the campaign;
- Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign; and
- Clothing, including attire for political functions such as business suits or shoes.

■ Maine Clean Election Act funds may not be spent to:

- make independent expenditures supporting or opposing any candidate, ballot measure, or political committee;
- assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
- contribute to another candidate, a political committee, or a party committee, other than in exchange for goods and services;
- pay a consultant, vendor, or campaign staff, other than in exchange for campaign goods or services;
- compensate the candidate for services provided by the candidate;
- pay an entry fee for an event organized by a party committee, charity, or community organization or to place an ad in an event publication, unless the expenditure benefits the candidate's campaign;
- make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
- promote political or social positions or causes other than the candidate's campaign;

- pay civil penalties, fines, or forfeitures to the Commission, or defend the candidate in enforcement proceedings brought by the Commission; or
- assist the candidate in a recount of an election.

■ Guidelines on Selected Issues

- *Electronics and Other Personal Property.* Goods purchased with MCEA funds that could be converted to personal use after the campaign (e.g., computers, fax machines, and cellular telephones) must be reported on Schedule E of the candidate reporting form. No later than 42 days after the general election, the goods must be sold at fair market value and the proceeds returned to the Maine Clean Election Fund. Candidates are welcome to lease electronic and other equipment.
- *Food.* Candidates may spend a reasonable amount of MCEA funds on food for campaign events or to feed volunteers while they are working. Legislative candidates should not use MCEA funds to purchase food that is consumed only by the candidate and/or the candidate's spouse. Gubernatorial candidates may use MCEA funds to purchase meals for the candidate and/or candidate's spouse if associated with travel for campaign purposes.
- *Vehicle Travel.* Candidates may elect to have the campaign reimburse themselves for vehicle travel at the reimbursement rate that is applicable to state government employees or for amounts actually paid for fuel and repairs (pro-rated to reflect only campaign-related usage). Candidates should keep a record for each trip that includes: date of travel, number of miles traveled, origination, destination, and purpose of travel.
- *Lodging.* Candidates may use MCEA funds to pay for lodging if necessary for campaign purposes, but must keep lodging expenses reasonable.
- *Post-Election Notes and Parties.* Candidates may spend up to the following maximum amounts of MCEA funds on post-election parties, thank you notes, or advertising to thank supporters or voters: \$250 for State Representative candidates, \$500 for State Senate candidates, \$2,500 for gubernatorial candidates. Candidates may also use personal funds for these purposes.
- *Campaign Training.* Candidates may use Maine Clean Election Act funds for tuition or registration costs to receive training on campaigning or policy issues.
- *Salary and Compensation.* Candidates may use MCEA funds to pay for campaign-related services by staff or consultants, provided that compensation is made at or below fair market value and sufficient records are maintained to show what services were received. The Commission recommends keeping a record that shows how many hours of services were provided by the staff member or consultant each month, and a description of services provided that month.

■ Enforcement

- The Commission reviews all expenditures disclosed by MCEA candidates in campaign finance reports, and frequently requests additional information from candidates to verify that public funds were spent for campaign-related purposes. Candidates who misuse public funds may be required to repay some or all public funds received, may be liable for civil penalties, and may be referred to the State Attorney General for possible criminal prosecution.